**S T A T E O F T E N N E S S E E**
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Opinion 06-152

County Commissioner Assuming Another Elected Office

## QUESTION

Representative Henri Brooks was elected to the Shelby County Commission in the August 3, 2006, election. Representative Brooks is also on the ballot as the Democratic nominee for the office of State Representative in the 92nd District in the November 7, 2006, general election. Representative Brooks did not timely remove her name from the ballot in accordance with the provisions of Tenn. Code Ann. § 2-13-204(d). If Representative Brooks is re-elected in the November 7 election, but immediately resigns, will this prevent her from "assuming office" for purposes of the Shelby County Charter.

## OPINION

Assuming that Representative Brooks is re-elected and then immediately resigns from the office of State Representative for the 92nd district, we do not believe that she has assumed "another compensated elective office" such that she would be required to vacate the office of county commissioner under Article 2.03(F) of the Shelby County Charter.

## ANALYSIS

Representative Henri Brooks was elected in November 2004 to the office of State Representative for the 92nd District. She was subsequently elected to the Shelby County Commission in the August 3, 2006, election. Article 2.03(f) Shelby County Charter contains the following provision with respect to county commissioners:

> No member of the Board of County Commissioners shall be eligible to hold any other local, county, state or federal compensated elective office so long as they hold the office of Shelby County Commissioner. If a County Commissioner assumes another compensated elected office the County Commissioner shall vacate the County Commission office within ninety (90) days and the vacancy shall be filled in accordance with Article II, Section 2.11

> herein. Provided, however, anyone who currently holds another compensated elected office may run for the County Commission so long as, if elected, that person resigns the existing elected office within ninety (90) days of his election as a County Commissioner. This Amendment shall become effective on August 31, 1994 and shall be applicable to all those Commissioners taking office on that date and thereafter.

This provision prevents a county commissioner from holding another elected office for which compensation is received. The issue here is if Representative Brooks is successfully re-elected in the November 7 general election, but immediately resigns, has she assumed another compensated elected office. Article 2.03(F) of the Shelby County Charter does not require that a county commissioner who assumes another compensated elected office to immediately vacate the office of county commission, but allows a ninety day period within which to vacate. Assuming that Representative Brooks is re-elected and then immediately resigns from the office of State Representative for the 92nd District, we do not believe that she has assumed "another compensated elective office" such that she would be required to vacate the office of county commissioner under Article 2.03(F) of the Shelby County Charter.

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